

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BOTKIER, INC.,

Plaintiff,

-v-

COSTCO WHOLESALE CORP., and JANE
& JOHN DOES 1-99,

Defendants.

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ELECTRONICALLY FILED
DOC #:
DATE FILED 12/10/07

No. 07 Civ. 11043 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

At the conference held before the Court on December 8, 2007, the Court heard argument regarding plaintiff's request for a temporary restraining order and granted plaintiff's request to file an amended complaint in the above-entitled action. Subsequently, at the conference held before the Court on December 10, 2007, the Court adopted the following directives:

IT IS HEREBY ORDERED that, for the reasons set forth on the record on December 8 and December 10, 2007, plaintiff's request for a temporary restraining order is DENIED. Specifically, the Court finds — upon review of plaintiff's First Amended Complaint, the supporting exhibits and declarations attached thereto, and the arguments presented by counsel at the two conferences before the Court — plaintiff has failed, at this early stage of the case, to demonstrate a likelihood of success on the merits, or sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly in plaintiff's favor. *See SmithKline Beecham Consumer Healthcare, L.P. v. Watson Pharm., Inc.*, 211 F.3d 21, 24 (2d Cir. 2000).

IT IS FURTHER ORDERED that the parties shall abide by the following briefing schedule with regard to plaintiff's request for a preliminary injunction:

Defendants' opposition shall be submitted by January 2, 2008.

Plaintiff's reply, if any, shall be submitted by January 9, 2008.

Thereafter, the Court will schedule a hearing regarding plaintiff's request for a preliminary injunction, if necessary.

SO ORDERED.

DATED: New York, New York
December 10, 2007



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE